

### **REMARKS**

Claims 1-4, 7-11, 14-18 and 21-23 are pending in the application. The Examiner is respectfully requested to reconsider and withdraw the rejections in view of the amendments and remarks herein.

#### **Claim Rejections – 35 USC § 101**

Claims 14-18 are rejected under 35 U.S.C. § 101 for allegedly being directed to non-statutory subject matter. More specifically, the Examiner has noted that the data processing system of claim 14 can be interpreted to include computer instructions without any physical structure elements. Although this rejection is respectfully traversed, claim 14 has been amended to provide a data processing system that includes, among other features, a first computer system at a remote site, and a second computer system at a local site. Accordingly, the data processing system of claim 14 is provided as a physical system having physical structure elements. Therefore, reconsideration and withdrawal of the rejections are respectfully requested.

#### **Claim Rejections – 35 USC § 112**

Claims 11 and 14-18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. This rejection is respectfully traversed.

With regard to claims 11 and 18, the Examiner has noted that there is insufficient antecedent basis for the term “the router”. Each of claims 11 and 18 have been amended to provide “at least one of the first and second routers.” Therefore, reconsideration and withdrawal of the rejections are respectfully requested.

With regard to claims 14-18, the Examiner has noted that each is directed to a data processing system, and that is unclear whether the data processing system is a computer program or a physical system having a processor.

As discussed above, claim 14 has been amended to provide a data processing system that includes, among other features, a first computer system at a remote site, and a second computer system at a local site. Accordingly, the data processing system of claim 14 is provided as a

physical system. Therefore, reconsideration and withdrawal of the rejections are respectfully requested.

#### Claim Objections

Claim 7 is objected to because of an informality. More specifically, the Examiner has noted that the term "determining" in line should be replaced with the term "determine". Applicant has amended claim 7 to overcome this objection. Therefore, reconsideration and withdrawal of the objection are respectfully requested.

#### Claim Rejections – 35 USC § 103

Claims 1-4, 7-11, 14-18, and 21-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over allegedly Admitted Prior Art ("APA") disclosed in the instant application, in view of U.S. Patent 5,732,275 to Kullick et al. ("Kullick"), and further in view of U.S. Patent 6,389,592 to Ayres et al. ("Ayres").

#### Alleged Admitted Prior Art

In rejecting claims 1, 7 and 14, the Examiner has relied on alleged APA as the basis for the rejections. In several instances, the Examiner has identified particular features of each of claims 1, 7 and 14 as APA, with an assertion that each such feature is identified as prior art in Applicants' disclosure. Applicants respectfully assert that the Examiner's allegations of APA are without support, and that the features identified by the Examiner as APA are not prior art.

At the outset, Applicants note that "[w]here the specification identifies work done by another as "prior art," the subject matter so identified is treated as admitted prior art."<sup>1</sup> Consequently, in order for an Applicant to admit that a feature is prior art, the Applicant's disclosure must provide an implication that such a feature is work done by another.

With regard to the feature of downloading at a remote site, an application to run as a remote application on a virtual machine located on the remote site, the Examiner has cited Figs. 1 and 2, and page 3, lines 8-14 of Applicants' disclosure in alleging this feature as APA. Applicant notes that there is no identification of either Fig. 1 or Fig. 2 as work done by another.

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<sup>1</sup> *In re Nomiya*, 509 F.2d 566, 571, 184 USPQ 607, 611 (CCPA 1975)

In fact, and to the contrary, Applicants specifically identify Fig. 1 as a block diagram of a system with remote debugging in accordance with the invention (see page 2, lines 28-29). Accordingly, there is no implication on Applicants' part that the disclosure of each of Figs. 1 and 2 is prior art, much less identifying such disclosure as work done by another. With regard to page 3, lines 8-14 cited by the Examiner, Applicants note that this excerpt describes features of Fig. 1.

Applicants further note that there is no implication within this excerpt that the features described therein constitute work done by another.

In view of the foregoing, the Examiner's allegation that Figs. 1 and 2, and page 3, lines 8-14 of Applicants' disclosure are APA is without basis. Consequently, the feature of downloading at a remote site, an application to run as a remote application on a virtual machine located on the remote site is not APA.

With regard to the feature of requesting, from the remote site, a local site to run a debugging system on the modified remote application running on the remote site, the Examiner has cited Fig. 2, and page 4, lines 5-10 of Applicants' disclosure in alleging this feature as APA. As discussed above, there is no identification of Fig. 2 as work done by another within Applicants' disclosure. With regard to page 4, lines 5-10 cited by the Examiner, Applicants note that this excerpt provides:

The back-end 230 of the debugger communicates requests from the debugger front-end 210 to the target VM 250 and communicates the response to these requests (including desired events) to the front-end 210. The back-end 230 communicates with the front-end 210 over a communications channel using the JDWP. The back-end 230 communicates with the target VM 250 using the JVMDI.

Accordingly, this excerpt merely describes features of Fig. 2, and there is no implication of such features as being work done by another.

In view of the foregoing, the Examiner's allegation that Fig. 2, and page 4, lines 10-15 of Applicants' disclosure are APA is without basis. Consequently, the feature of requesting, from the remote site, a local site to run a debugging system on the modified remote application running on the remote site is not APA.

With regard to the feature of running the debugging system on the local site, the local site being separated from the remote site, the Examiner again cites Figs. 1 and 2 as APA. As

discussed in detail above, Figs. 1 and 2 of Applicants' disclosure are not implicated as APA. Consequently, the Examiner's assertion is without basis.

With regard to the feature of establishing a communication link between a first router located on the local site and a second router located on the remote site, and using the communication link between the first and second routers to establish communication between the debugging system and the virtual machine, the Examiner cites Figs. 1 and 2, and page 5, lines 17-19 of Applicants' disclosure in alleging this feature as APA. As discussed in detail above, there is no identification of either Fig. 1 or Fig. 2 as work done by another, and, to the contrary, Fig. 1 is specifically identified as a block diagram of a system with remote debugging in accordance with the invention (see page 2, lines 28-29). With regard to page 5, lines 17-19 cited by the Examiner, Applicants note that this excerpt provides in relevant part:

Establishing a communication link between the routers 261, 262 (and therefore through both firewalls 281, 282) is known in the art...

Although this excerpt describes a communication link between routers and corresponding firewalls as being known in the art, it does not describe the additional features of using the communication link between the first and second routers to establish communication between a debugging system and a virtual machine as being otherwise known. In fact, there is no implication within Applicants' disclosure that using such a communication link to establish communication between a debugging system and a virtual machine is known in the art.

In view of the foregoing, the Examiner's allegation that Fig. 2 of Applicants' disclosure is APA, and the Examiner's allegation that page 5, lines 17-19 describe the feature of using such a communication link to establish communication between a debugging system and a virtual machine is known in the art are without basis. Consequently, the feature of establishing a communication link between a first router located on the local site and a second router located on the remote site, and using the communication link between the first and second routers to establish communication between the debugging system and the virtual machine is not APA.

#### Claim Rejections

As noted above, independent claims 1, 7 and 14 stand rejected under 35 U.S.C. 103(a). In rejecting claims 1, 7 and 14, the Examiner heavily relies on the allegations of APA, each of

which is described in detail above. To the extent that each of the features alleged by the Examiner as being APA do not constitute APA, the asserted references fail to describe these features. More specifically, the asserted references fails to describe at least the following features:

- downloading at a remote site, an application to run as a remote application on a virtual machine located on the remote site;
- requesting, from the remote site, a local site to run a debugging system on the modified remote application running on the remote site;
- running the debugging system on the local site, the local site being separated from the remote site; and
- establishing a communication link between a first router located on the local site and a second router located on the remote site, and using the communication link between the first and second routers to establish communication between the debugging system and the virtual machine.

In view of the foregoing, reconsideration and withdrawal of the rejections are respectfully requested.

Each of claims 2-4, 8-11, 15-18 and 21-23 ultimately depends from one of claims 1, 7 and 14, which define over the asserted art, as discussed in detail above. Consequently, each of claims 2-4, 8-11, 15-18 and 21-23 also define over the asserted references for at least the same reasons. Therefore, reconsideration and withdrawal of the rejections are respectfully requested.

### CONCLUSION

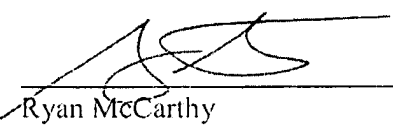
It is believed that all of the pending issues have been addressed. However, the absence of a reply to a specific rejection, objection, issue, or comment, including the Office Action's characterizations of the references, does not signify agreement with or concession of that rejection, issue, or comment. In addition, because the arguments made above may not be exhaustive, there may be reasons for patentability of any or all pending claims (or other claims) that have not been expressed. Finally, nothing in this paper should be construed as an intent to concede any issue with regard to any claim, except as specifically stated in this paper, and the amendment or cancellation of any claim does not necessarily signify concession of unpatentability of the claim prior to its amendment or cancellation. Since the amendments made herein have been made solely in an effort to expedite advancement of this case, the Applicants reserve the right to prosecute the rejected claims in further prosecution of this or related applications. Applicants respectfully request consideration of all filed IDS' not previously considered, by initialing and returning each Form 1449.

No other matters being raised, it is believed that the entire application is fully in condition for allowance and such action is courteously solicited.

No charges are believed due. However, if any fees are due, they are being paid concurrently herewith on the Electronic Filing System (EFS) by way of Deposit Account authorization. Please apply all charges or credits to Deposit Account No. 06-1050, referencing Attorney Docket No.13913-053001.

Respectfully submitted,

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Ryan McCarthy  
Reg. No. 50,636

Fish & Richardson P.C.  
One Congress Plaza, Suite 810  
111 Congress Avenue  
Austin, TX 78701  
Telephone: (512) 472-5070  
Facsimile: (512) 320-8935